IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8213 of 2001

Between:

G. Tirupathi Rao

S/o Venkatesh, aged about 35 years, Occ: Conductor, E.No. 300799, R/o Kanagarthy Vill, Odela Mandal, Karimnagar District- 505 154

..... PETITIONER

AND

1. The Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District, rep by its Presiding Officer.

2. The Depot Manager, A.P.State Road Transport Corportion, Karimnagar-II Depot, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the first respondent and issue an appropriate writ, order or direction, particularly one in the nature of Writ of Certiorari, and quash the Award passed by the first respondent in I.D.No. 150 of 1996, dated 14.9.2000, published on 10.1.2001 as illegal, unjust, contrary to law and perverse and grant all consequential benefits to the petitioner and pass such other order or orders as deemed fit and

proper under the circumstances of the case.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for respondent No. 1: G.P. for Labour.

Counsel for the Respondent No. 2: SMT.P.RAJANI REDDY, SC for respondent.

The Court made the following:

ORDER:

Heard Sri P. Sridhar Rao, learned counsel appearing for the petitioner and also Smt. P. Rajini Reddy, learned Standing Counsel appearing on behalf of the second respondent and also the Government Pleader for Labour, appearing on behalf of the first respondent.

The petitioner, who was working as Conductor with the second respondent, filed this Writ Petition, inter alia, seeking for Writ of Certiorari, seeking to assail the I.D No. 150 of 1996, dated 14.9.2000, as published on 10.1.2001 as illegal and unjust.

The facts in brief are that while he was conducting the bus, a check was made and on the basis of certain irregularities found he was removed from service. Thereafter, the matter was referred to the Labour Court on an application filed under Section 2-A(2) of the Industrial Disputes Act. No oral evidence was produced before the first respondent herein and the documents filed on behalf of the second respondent were marked, as Exs M1 to M-33 and the documents filed on behalf of the petitioner were marked as Exs W-1 and W-2. The Labour Court considering the same, and by going into the merits held that the charge made against the petitioner is true and the petitioner is guilty thereof and therefore, the order of removal is perfectly valid. Hence, the award is passed. Against the same, the present Writ Petition is filed.

The learned counsel appearing for the petitioner submits that having regard to the settled principles laid down by the Supreme Court reported in COOPER ENGINEERING LIMITED VS. P.P. MUNDHE in regard to the mandatory requirement of giving a finding as to the validity of the domestic enquiry, there is no such attempt on the part of the first respondent and the first respondent by going into the merits straight away, upheld the orders of removal.

The learned Standing counsel appearing on behalf of the respondents sought to sustain the order on the ground that the same is supported by reasons and the material filed in support thereof, hence, it does not call for any interference.

Considering the submissions made and also on perusal of the material, the question that calls for consideration is, as to whether on the facts and circumstances, the award passed by the first respondent herein, in the absence of preliminary finding, as to the validity of the domestic enquiry, is valid.

There is no dispute of the facts leading to filing of the present Writ Petition and the petitioner was working as Conductor and after a check, an enquiry was ordered on certain irregularities found against the petitioner and ultimately he was removed. Thereafter, he approached the Labour Court. On a reading of the award, which has been impugned in this Writ Petition, it is seen that there is absolutely no finding, much less, a specific point framed in regard to the validity of the domestic enquiry. As held in the above said decision, the procedure is mandatory and without which, the merits could not have been gone in to. Following the same, it is held that the matter requires re-consideration.

Accordingly, the Writ Petition is allowed and the matter is remitted back to the first respondent for fresh consideration and disposal on merits in accordance with law, after giving an opportunity and notice to both sides. No costs.

B. PRAKASH RAO, J

DATED: 17.02.2005

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That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Seventeenth Day of December Two Thousand and Four.

To

1. The Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District, rep by its Presiding Officer.

2. The Depot Manager, A.P.State Road Transport Corportion, Karimnagar-II Depot, Karimnagar.

3. 2 CD copies.